



**ZONING BOARD OF APPEALS**  
**RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING**  
**100 MAPLE AVENUE**  
**SHREWSBURY, MA 01545-5398**

October 24, 2006

PUBLIC HEARING: Heritage Home Carpentry, 30 Grafton Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Heritage Home Carpentry, 235B Cherry Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Residence B-2 District, to allow the construction of an addition 22 ft. from the westerly sideline of Grafton Street upon property located at 30 Grafton Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 232.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

Mr. Rosen: Is there a representative here?

Mr. Lund: Yes.

Mr. Rosen: Have a seat please.

Mr. Lund: Thank you. I'm Chris Lund with Heritage Home Carpentry. I'm the contractor representing the homeowner, Mary Gallagher.

Ms. Gallagher: I am Mary Gallagher.

Mr. Lund: I've just got some material to put up on the corkboard. We're proposing to do a renovation of Mary's property that would give her, essentially, a front entrance to her house where it presently doesn't have one, believe it or not. In order to do that, we're proposing an 8 ft. addition on the front of the house by 9 ft., 4 in. wide. Currently, to the middle of the house, the house is about 31 ft. off the front line of Grafton Street. It comes a little closer as we go towards the southern corner of the house on the front to where it would be 22. The relief would be 8 ft., therefore 22 ft. away from the street.

The house, right now, has a side entrance that enters into a dilapidated, screened porch. So, you go into a cold space and then enter the house through an exterior door via a sidewall inside and between the porch and the house. So, the door that you look at currently on the house is actually a porch door and then the entrance to the house is on the side. So, currently, there's no real front entrance to the house so that anyone who

approaches the house doesn't really know which way to go. There's no established front presently. With the setback as it is currently, any kind of renovation done on the front of the house would require a front setback variance to do work on the house. In that neighborhood along Grafton Street and, I believe, Wesleyan Street, there are several houses at present that are already encroaching into the front yard setback on other house lots in the area so we don't view the project as being detrimental to the neighborhood.

We wanted to keep the entrance, give it a main entrance, but yet keep it to the side of the house so that it came out as little as possible but still gives her the opportunity to have a covered entrance to get out from the weather as she enters the house. It allows her to enter some kind of mudroom space with a closet which gives her a little foyer like most houses have. The current lot is an odd shape so there's very little room in the front of the house to do any kind of front entrance/renovation to the house.

I think that's basically all the points of why we're trying to gain relief for Mary Gallagher and to allow us to do this project. Are there any questions?

Mr. Gordon: I have just a couple. The porch now will then become an enclosed area? Are you going to close that in or is it closed in now?

Mr. Lund: It currently has jalousie windows so it's a three-season porch.

Mr. Gordon: You're going to make it a full entrance?

Mr. Lund: Correct.

Mr. Gordon: Okay. Now, this lot is nonconforming anyway, isn't it Ron?

Mr. Alarie: Yes, particularly with respect to its area. You've got some setback issues at the rear as well.

Mr. Gordon: The house was basically built before zoning?

Mr. Alarie: Yes, well before zoning.

Mr. Lund: It was in 1941.

Mr. Gordon: Okay, I have no other questions.

Mr. Rosen: Anyone else? Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Heritage Home Carpentry, 235B Cherry Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Residence B-2 District, to allow the construction of an addition

22 ft. from the westerly sideline of Grafton Street upon property located at 30 Grafton Street.

The board reviewed the appellant's plan to construct an 8 ft. by 9.3 ft. entry to the front of the single family dwelling currently situated upon the subject premises and noted that the parcel is very irregular in shape and that the existing residence does not have a point of entrance along its front exposure. It was their opinion that, due to the unique configuration of this lot and the structure thereon, the literal application of the minimum terms of the Zoning Bylaw would impose a substantial hardship to its owner. They found that the reduction of the property's existing front yard setback by 8 ft. would not materially change its present configuration and that it would be substantially consistent with the siting of many of the other homes within this section of the Grafton Street corridor. They concluded that the construction of the proposed addition would have no detrimental impact upon the welfare of either the general public or area residents and it was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Meredith Kern and Chris Williams, 284 Prospect Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Meredith Kern and Chris Williams, 284 Prospect Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 12 ft. from the rear lot line of property located at 284 Prospect Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 11 as Plot 171.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

Mr. Rosen: Is anyone here?

Mr. Williams: We're right here. Thank you.

(The appellants presented materials to the board members.)

Mr. Williams: Thank you, I'm Chris Williams. This is my wife, Meredith. We've been in Shrewsbury since 1994 at this location. What we're proposing is putting in a pool in the back of the property, a 17 ft. by 36 ft. free-form oval done by Snyder Pools in

Westminster. We're working with a landscape architect who put this together, Contemporary Design Construction. This drawing was done by Contemporary Design. It is to scale. The property has been surveyed in September to make sure that we've got the property lines right and the house in the proper area.

We're looking for relief from the 20 ft. rear setback. That reduces the size of any possible pool in this area to something below what we feel is reasonable to build. It basically turns it into a lap pool. There are a few reasons for that. We're looking for 12 ft. rather than 20 ft. We've discussed it with the direct abutters. There were no objections at the time that we discussed it. I do see other abutters here so there may be some discussion there. The reasons why we want it where it is is that we need it far enough away from the house that people aren't going to come out of the glass doors and fall into the pool. There is at least a three step minimum required from the edge of the house to get down to grade level. We'd like some sort of landing outside that door so that there's a transition there and you're not making it all at once. We have two small children, ten and seven. They have a tendency to run out of this thing. I'd like to avoid having any accidents there for any of us.

There's a bulkhead, furnace/hot water vent there. The bulkhead is here. The furnace vents are here. There are air conditioner compressors here which, again, require more setback from the house. I don't know if there is a direct setback requirement from the edge of the bulkhead itself. We've left 6 ft. there. If there is more than that, we may have to shift this back. There is some room to shift the pool to the north, this is north, if we had to. Right now, we're situated 20 ft. from the property line. It's a 10 ft. zoning for that area. We need the pool as far north as possible, as far to this side, because the property actually narrows out as it goes towards the south. It actually gets worse.

Mr. Confalone: But, if you pulled it to the north, you still wouldn't be within 20 ft.?

Mr. Williams: You still would not be within 20 ft.

Ms. Kern: No, no.

Mr. Williams: No, no. Some relief is necessary no matter what we do to put something in.

Mr. Confalone: What are the dimensions of the pool?

Mr. Williams: It's 17 ft. by 36 ft. It's a free form oval.

Ms. Kern: It's vinyl lined.

Mr. Williams: Yes.

Mr. Rosen: Are there any questions from the board?

Mr. Schaetzke: It's just a question for the chair I'd like to ask first. Isn't the setback requirement here from the deck and not the edge of the pool, or maybe for Mr. Alarie?

Mr. Alarie: It's to the water's edge of the pool.

Mr. Schaetzke: It does not include the deck?

Mr. Alarie: It does not.

Mr. Rosen: No, no. It's an outside structure, no roof.

Mr. Schaetzke: Okay. And, to the applicant, why not move it to the south?

Mr. Williams: Well, why not move it to the south? As you go to the south, the property gets narrower so it actually gets more difficult the further south you go.

Ms. Kern: It's not square. It's not a rectangle.

Mr. Williams: This isn't square at all here. We have roughly 48 ft. Let's see, it's 43 ft. from the edge of the bulkhead to the property line here and it's roughly 44 ft. when you get to here and it turns into 43 or 42 by the time you get to here. Take 20 ft. out of that plus 8 to 10 ft. clearance from the house and what you end up with is a lap pool.

Mr. Gordon: What is the easement across the corner of your land?

Mr. Williams: The easement across the corner of the land is a Shell Oil pipeline.

Mr. Gordon: Okay.

Mr. Williams: It's very far down.

Mr. Gordon: You don't want to get too close to that though.

Mr. Williams: We don't want to get anywhere near that.

Ms. Kern: No, that's like the driveway coming off of Prospect Street. There are no permanent structures on that or our neighbors.

Mr. Williams: Right. That affects every house in the area and across the street and just keeps going. That goes in through Northborough.

Mr. Gordon: And, you've spoken to your neighbors, although you've said one of them may be here?

Mr. Williams: Yes.

Ms. Kern: Yes.

Mr. Gordon: Okay. What happens to the swing set?

Mr. Williams: It goes away.

Ms. Kern: It goes away.

Mr. Williams: That goes away.

Mr. Gordon: Okay. What have your kids got to say about losing their swing set?

Mr. Williams: They're quite happy.

Ms. Kern: They're beyond that now.

Mr. Williams: They're way beyond that. With the tradeoff for a pool they would be quite happy.

Mr. Gordon: Do they swim?

Mr. Williams: Yes. They both swim like fish.

Mr. Gordon: You're taking the old deck out?

Mr. Williams: Yes, absolutely. Any patio that will be there will be down to grade level. We did have one rendition done of the landscaping.

(Mr. Williams presented the rendering to the board.)

It's computer assisted. Some of the big trees in the back no longer exist.

Mr. Gordon: What will you be doing to fence yourself up from the back neighbor? It looks like it's shallow back there.

Mr. Williams: It is shallow in the back there. We're certainly planning on putting bushes back there to do some screening.

Mr. Gordon: What kind of bushes.

Mr. Williams: We'll put in a solid fence if that's what's desired. We'll keep it open if that's what's desired but we do want some privacy barrier there, obviously. It cuts the noise. It will cut everything. We have a row of bushes there right now. They have a row of bushes back there. It is somewhat effective.

Mr. Gordon: Okay. But, you'd be willing to do some fencing?

Mr. Williams: Absolutely.

Ms. Kern: Oh, yes.

Mr. Williams: We have to do fencing anyway. It all has to be fenced. The state codes are really clear on that and meeting the codes is necessary. There are all sorts of requirements as to door alarming and all sorts of other things that are going to have to be dealt with.

Mr. Gordon: So, this is going to be inground even though it's vinyl?

Ms. Kern: Yes.

Mr. Williams: It's going to be an inground vinyl, yes.

Mr. Gordon: Okay; I'm cool.

Mr. Rosen: Is there anyone else? Is there anyone in attendance who would like to comment on this petition? Could you just state your name for the record Please.

Mr. Pritchard: Yes, Phillip Pritchard. I live directly behind them. There are just two things that we're concerned about. We haven't seen the corner boundaries. He did say that it was professionally surveyed so we just have to see a certificate on that situation. An 8 ft. privacy fence would be a good thing. We have small kids too and it would cut down on the noise. Other than that, I don't think that there's any major problem. He took away one of the big trees that gives us leaves so we're pretty happy with that, but looking at the fencing aspect of it, we have a concern about privacy and safety.

Mr. Rosen: What's the requirement on that Ron, a 6 ft. fence?

Mr. Alarie: No, 4 ft.

Mr. Williams: We're willing to work with whatever's necessary.

Mr. Rosen: Okay. So, you would have no objection if we said something more than that?

Mr. Williams: We would have no objection to that if that's what they want. We have no problem at all.

Mr. Rosen: Okay. Is there anyone else who wants to be heard on this? You can also get a plot plan to them?

Mr. Williams: Absolutely. I'll even point out the stakes. It's staked and marked all the way.

Mr. Rosen: Good enough. Okay. There being no further questions, we'll take it under advisement and notify you of the board's decision.

#### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Meredith Kern and Chris Williams, 284 Prospect Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 12 ft. from the rear lot line of property located at 284 Prospect Street.

Upon review of this appeal, the board noted that the shape of the subject premises is not uniform, but rather that it narrows substantially in its depth from its northerly to southerly side boundaries. The board found that, due to the siting of the existing dwelling thereon and the configuration of its rear yard area, the imposition of the minimum 20 ft. rear yard setback requirement would impose a substantial hardship to the appellants in their attempt to site an inground swimming pool upon their property. It was their opinion that the reduction of the setback to 12 ft. would not severely depart from either the intent or the purpose of the Zoning Bylaw and that the installation of the pool would not create any condition which would adversely impact the welfare of either the general public or the abutting property owners. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the requirement that that portion of the pool enclosure to be installed along or adjacent to the lot's rear line of the lot shall be a solid-type fence having a minimum height of 8 ft.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: James E. and Clara E. Rouse, 5 Hickory Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of James E. and Clara E. Rouse, 5 Hickory Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the construction of an addition 20 ft. from the side lot line upon property located at 5 Hickory Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 53 as Plot 18-8.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

Mr. Rosen: Tell us what you're going to do.

Mr. Gordon: First, identify yourself, if you would.

Mr. Rouse: I'm Jim Rouse and this is my wife, Clara.

Mr. Gordon: Thank you.

Mr. Rouse: We came before the committee in 2000 for the same variance. Let me apologize that we don't have the finished drawings. We were supposed to have received them today and we don't have them, but you have the sketch, I believe. You should with the original filing.

Mr. Gordon: Is this the sketch that you're talking about? No, something else?

Mr. Rouse: We submitted a sketch of the addition.

Mr. Gordon: Okay.

Ms. Rouse: The original plan.

Mr. Rouse: That happened to be our only sketch because our new drawings were supposed to be here by today. Anyway, it was a sketch of the original application for a variance back in 2000 which, at that time, we were putting an attached garage with a great room above the garage on the house. Well, for whatever reason, all we did was put the garage on the house at that time and now we'd like to put the great room above the garage. So, we're really coming back because we haven't done the work within the one year time frame. We put the garage on. The garage has been on for six years and now we're putting the great room above it or we'd like to.

Mr. Rosen: So, this was approved?

Mr. Rouse: It was approved in 2000.

Mr. Gordon: And it's only one year old?

Mr. Rouse: Oh no, six years.

Mr. Gordon: Oh, six years. Okay.

Mr. Rouse: We were told that, in order not to come back in front of you, we would to have had to have done all that work in a one year time frame. We put the garage on, but not the great room.

Mr. Gordon: Are there any other changes to the plan?

Mr. Rouse: No.

Mr. Gordon: You're just going straight up?

Mr. Rouse: I'm going straight up.

Mr. Rosen: Do you have the previous plan?

Ms. Lane: Ron's going to get that now.

Mr. George: What's the basic addition going to be?

Mr. Rouse: It's just going to be a great room, a family room.

Mr. George: Over the garage?

Mr. Rouse: Just over the garage, right.

Mr. Gordon: Just straight up.

Mr. Rosen: Do you have the dimensions of this garage?

Mr. Rouse: Excuse me?

Mr. Rosen: It's going straight up, the same dimensions?

Mr. Rouse: Straight up, the same dimensions, 14 ft. by 24 ft.

Ms. Rouse: It will be the same type of roof.

Mr. Confalone: It will blend in with the existing?

Mr. Rouse: There it is.

(Mr. Alarie presented the plan approved in 2000 to Mr. Rosen.)

Mr. Rouse: That will be how the front will look.

Mr. Rosen: Ron, why wouldn't this be a special permit?

Mr. Alarie: Because the special permit only allows you to grant extensions or the expansion of preexisting nonconforming structures. This is not legal nonconforming, it was done by way of a variance.

Mr. Rosen: Okay.

Mr. George: So Ron, the garage was built by variance?

Mr. Alarie: Actually, I pulled that out of the last folder. That plan represents what was approved back in 2000. They just built the garage and did not build the upper story at that time.

Mr. George: Right.

Mr. Rosen: The first story's done.

Mr. Confalone: This is just the original plan. They want to complete the job.

Mr. George: Right.

Mr. Rosen: So, you don't want to make any deviations from this original plan?

Mr. Rouse: I'm not sure that the windows will be the same.

Mr. Rosen: Okay. Does anyone else have any questions?

Mr. George: I don't have any questions.

Mr. Gordon: I voted for the last one.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

The decision of the board is on the following page.

#### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of James E. and Clara E. Rouse, 5 Hickory Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the construction of an addition 20 ft. from the side lot line upon property located at 5 Hickory Drive.

On February 23, 2000, the appellants were granted a variance to the minimum side yard requirement to allow the construction an addition to the easterly side of their home that would extend to within 20 ft. of the respective side lot line. At that time, they proposed to construct a two story, 24 ft. by 24 ft. addition which consisted of a two-car garage at grade level with a great room situated above the garage area. However, subsequent to the issuance of that relief, they elected to construct only an attached two-car garage and they now propose to add the second story to this addition.

Upon review of this appeal, the board noted that their decision of February of 2000 clearly established that there were conditions affecting the subject premises that warranted the reduction of the minimum side yard requirement to 20 ft. They further noted that the Rouses have exercised partial use of that variance to construct the aforementioned garage and that the reduction of the side yard setback to 20 ft. for that structure did not seriously depart from the intent of the Zoning Bylaw and its existence during the past 6 years has not created any condition which has adversely impacted the welfare of either the general public or of area residents. It was their opinion that construction of the proposed habitable area above the garage maintaining its same footprint would not materially change the configuration of this property, that it would be consistent with the board's previous actions and that the vertical extension of the existing setback would not alter its affect upon the general public or the neighborhood. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Shrewsbury Lumber, LLC, 731 Hartford Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Shrewsbury Lumber, LLC, 731 Hartford Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-4a, to allow the installation of a sign 1 ft. from the northerly sideline of Hartford Tpke. upon property located at 731 Hartford Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 42 as Plot 17.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

Atty. Ricker: Good evening Mr. Chairman and members of the board. For the record, my name is Richard Ricker. I'm an attorney and I practice at 11 Maple Ave. I'm representing Shrewsbury Lumber LLC. Seated to my right is Robert Derderian. He's one of the principals of the LLC. To his right is Chad Donfro who is the general manager of Shrewsbury Lumber LLC.

You may recall that about six months ago, maybe a little longer, we were before your board asking for permission to put a front door on the building at 731 Hartford Turnpike which, as you know, is just to the west of the South Street intersection on the northerly side of Hartford Turnpike. As you know, they have put the door on the front of the building. I'm assuming that there haven't been any issues with the neighbors as a result of all of the work being done to the front of the building which was anticipated and which has occurred. So, that was a positive development, I think, in the neighborhood at that time.

With respect to this appeal, this is a request for a variance to place a sign. You may recall when we were here the last time, I think it was Mr. Gordon who asked are you going to be coming back to talk about a sign at some stage. At that stage, we didn't know what the issues with the signage would be at that location. What they did do is they put a sign on the building itself, on the building face. This is a request to put the sign out 1 ft. off of the layout of Hartford Turnpike, which still would be some distance, 21 ft., off of the pavement of Hartford Tpke. It's a fairly wide layout as you know.

Basically, the reasoning for this is, and I'm sure that you're all familiar with the layout of Hartford Turnpike, as you come down that hill, for instance, you just can't see the building. You can't even see the parking areas in front of the building because of the way that the road curves a little bit as it comes down the hill. It comes past the Shrewsbury Transmission location right here. This is the building. South Street is right down here. There's a vacant lot to the east of this property. There are trees that are on both of the neighboring properties. Just beyond Shrewsbury Transmission, there are trees that come right out to the layout. There are trees to the east, as well, on that lot. There are some wetlands impacting that lower corner there. There are some trees there that also impact the use, thus the hardship. The hardship is the layout as it affects the visibility of the site and the grade as well as the speed of the road at that particular location.

As all of you are aware, vehicles go by there anywhere from 40 to 60 M.P.H. It shouldn't be 60, but it does happen at times. Coming down the hill is probably the most troublesome aspect of accessing this property. Their entrance to this property is here which, as you're coming down Route 20, it's very difficult to anticipate where the entrance is unless you do see a sign. They need this sign in order to allow people to anticipate the entranceway and where the entrance and actually the egress are as well because you have traffic going both ways at that spot.

This problem is incidental to basically just this site. It's the only site that faces this particular problem on this stretch of the road. Therefore, I would suggest that it is peculiar to this particular site. I would also suggest that it's not a derogation of the bylaw because it is a business. It is a business road. It's a heavily traveled road. The signage here would be a safety issue. It would be important to improve the safety of access and egress to a commercial property on Route 20, which is a commercial road, heavily traveled with fairly high speeds. It would be a benefit to the neighbors and the neighborhood in general, I would suggest, because of the safety issues and access and egress. It allows people to have advance notice of where the entrance is so that people can slow down in advance and there are no surprises.

So, with that, if you have any questions, we certainly will try to answer them.

With particular attention to the sign itself, don't let me forget I did have copies of the tax map which basically does show you the curvature as you're coming down that roadway.

(Atty. Ricker presented the material to the board members.)

This would be the sign that would be proposed. It's a 12 ft. by 5 ft. sign. It would have a green background to match the building. You may have noted, I'm sure you've seen it, the building has been improved with the entrance of Shrewsbury Lumber into Shrewsbury. The building was greatly improved. The site has been cleaned up. There have been a number of improvements at the site. This would be a green background to match the building with white or beige lettering. That's basically it.

Mr. Rosen: Lighting?

Atty. Ricker: It would be an interior lit sign.

Mr. Confalone: Just out of curiosity, if you came back off the lot line to be in compliance with the bylaw, where would you be and where would the trees be, just so that I can kind of see the angle?

Atty. Ricker: How many feet is it Ron?

Mr. Alarie: The requirement is 25 ft. If I remember correctly, the building is about 90 ft. back from the line.

Atty. Ricker: So, your signage would be in here somewhere.

Mr. Confalone: Okay.

Atty. Ricker: The paved layout is out here.

Mr. Confalone: Right. The trees are right up in front of you on either side?

Atty. Ricker: Oh, yes.

Mr. Gordon: How tall is the sign going to be?

Atty. Ricker: Twenty feet.

Mr. Rosen: To the top?

Atty. Ricker: Yes.

Mr. Rosen: The post is 20 ft. to the top?

Mr. Derderian: Twenty feet to the top.

Mr. Gordon: How does that affect the transmission place's sign going west?

Atty. Ricker: Going west? As in any location, there is one spot where there might be some brief blockage, very brief. They did have some conversation about it. Maybe Mr. Derderian could talk about it however, I don't think that he voiced any major concerns after they had some discussion about it. As in any signage along a highway, there would be some, however brief.

Mr. Gordon: Okay.

Mr. Schaetzke: Where does this location come with respect to the fence? Maybe I should ask where's the fence with respect to the lot line?

Atty. Ricker: Basically, it's right at the fence at the property line.

Mr. Schaetzke: So, we're really talking about 1 ft. in from the fence?

Atty. Ricker: Yes.

Mr. Schaetzke: This shaped sign then would extend over the fence?

Atty. Ricker: No. I actually discussed that with them. It would be the intent to have the edge of the sign be at the 1 ft. mark,

Mr. Schaetzke: Okay. So, there would be another foot from the edge of the sign to the top of the fence if you're drawing vertical lines?

Atty. Ricker: Correct.

Mr. Schaetzke: So then, the sign post is well into your parking lot?

Atty. Ricker: Right, because otherwise you'd have the sign hanging over the layout of Hartford Turnpike, which would not be proper.

Mr. Schaetzke: Exactly.

Atty. Ricker: So, we have discussed that, actually.

Mr. Gordon: It's basically 5 ft. in to the post.

Atty. Ricker: Yes, approximately 6 ft. in

Mr. Gordon: Okay.

Mr. Rosen: It's 7 ft.

Atty. Ricker: Right.

Mr. Schaetzke: I would imagine that the way that you have the sign on the building right now you've got people going by looking to make a U-turn.

Atty. Ricker: That has become a problem and that's the reason for the request. That has become a major problem.

Mr. Schaetzke: We all know how much fun that U-turn on Route 20 is.

Atty. Ricker: And nobody needs a surprise at that particular location, as well. You don't need to be going down Route 20 looking for something and not finding it until you're just in front of an intersection.

Mr. Gordon: The sign on the building, is that lit?

Mr. Derderian: No.

Atty. Ricker: No.

Mr. Gordon: It is not. Where this is an interiorly lit sign, is it going to have its own electric meter?

Mr. Derderian: I assume that it would.

Mr. Gordon: Well, the reason that I'm asking that is would it be any inconvenience to have this sign have a timer and go off late in the night?

Mr. Derderian: No.

Atty. Ricker: No. As a matter of fact, their intent was not to actually light it right away but to see how it works out and then probably put a timer on it.

Mr. Gordon: If you put a timer on it, I would be happier because then the houses that do happen to be in the neighborhood won't have illumination all night long.

Atty. Ricker: That would be an acceptable condition, Mr. Gordon.

Mr. Alarie: I don't think at 20 ft., Mr. Gordon, that they would be able to see that with the height of the building. They do sit up a little bit higher, but they're quite a distance away from where that sign is proposed to be located.

Mr. Gordon: Okay.

Atty. Ricker: However, we still don't have a problem with that timer.

Mr. Derderian: We wouldn't be looking for advertising benefit.

Atty. Ricker: In the middle of the night, the advertising is not our concern.

Mr. Gordon: On Route 20, it only gets the 40 footers. That's my only question.

Mr. Schaetzke: I'm all set.

Mr. George: On the previous hearing, we had a little concern about early deliveries. Have there been any early deliveries?

Atty. Ricker: I don't know that there've been any complaints or anything of that nature.

Mr. Rosen: Have there been any complaints to you Ron?

Mr. Alarie: No. It's been quiet there.

Atty. Ricker: I think, generally, that the neighbors are probably satisfied with the changes that have taken place here.

Mr. George: We did have one abutter that was here last time.

Atty. Ricker: That was fairly vocal about it. There were two reasons for that. One was because of all of the loading in the rear of the building in the early morning hours, which they don't do and which you recall there was some discussion about. It was basically noise of the backup of the trucks at 5:00 in the morning. That was the reason for the overhead door in the front of the building. They have been sensitive to the neighbors concerns, to say the least. They've cleaned up the rear of the yard.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition?

Mr. Singer: David Singer, 400 South Street. I am one of the abutters. I would just like to say that since they've moved in they've done everything. They've just been a great neighbor. They've cleaned up; they're quiet over there. We don't see a problem with the sign, the lighting what have you. They're a lot better than Kamco was. The other

neighbor who was there is not here and might have gone down and spoken to them, but I'm not sure. But, they're a nice company/

Just to be brief, the real main concern I had with where the sign was going to go was the lighting on it. You've addressed that.

Mr. Rosen: Thanks for coming up.

Atty. Ricker: We really didn't want him to mention the competitor but that's okay.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Shrewsbury Lumber, LLC, 731 Hartford Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-4a, to allow the installation of a sign 1 ft. from the northerly sideline of Harford Tpke. upon property located at 731 Hartford Tpke.

The appellant operates a building materials sales and storage yard upon the subject premises, which is located on the northerly side of the Harford Tpke. about 300 ft. westerly of its intersection with South Street. The board noted that motorists traveling eastbound along Route 20 are moving downhill at a high rate of speed and that their building is not readily visible due to trees and other vegetation along the road as well as the siting of the adjacent building to its west. It was their opinion that, in this instance, the reduction of the front yard setback for the proposed sign would advance the interest of public safety and would not seriously depart from the intent of the Zoning Bylaw as the proposed sign would still be located approximately 20 ft. in from the edge of the paved surface of the road. They found that providing the relief requested would be beneficial to the welfare of the general public and, therefore, unanimously voted to grant the appeal as presented to the board.

### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Tin Y. Chan and Kimberly A. Huban, d/b/a Pump It Up of Shrewsbury, 810 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Tin Y. Chan and Kimberly A. Huban, d/b/a Pump It Up of Shrewsbury, 4 Carruth Drive, Northborough, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-4a, to allow the installation of a sign 1 ft. from the southerly sideline of Boston

Tpke. upon property located at 810 Boston Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 35 as Plot 25-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

(Ms. Huban presented materials to the board members.)

Mr. Chan: Good evening, I'm Tin Chan from Northborough. I want to discuss the history of our location and also the proposed sign which you have in front of you, the specific hardship that literal enforcement of the bylaws will impose upon us, the issues of topography which are specific to our lot and also how granting the variance would not be to the detriment of the public good or derogate from the intent and purpose of the bylaws.

First of all, we were in front of the board back in May asking for a use variance for Pump It Up. You granted that unanimously, I think a few weeks after that. We mentioned at the time that we would be coming back for a sign variance. As you look at the handout, we're going to go over the proposed sign location. That's what we're here for. If you look at the Thompson Liston parking survey, which is kind of the gray shaded kind of graffy looking picture, we propose to put the sign 1 ft. from the northerly lot line near the northwest corner of the lot.

If you turn the page to Page 2, you can see a picture of the sign. It's three signs. Basically, our sign is going to go up first. The other two signs will come later. Apple Spice, which is the front of our building, has indicated an interest, but it is not in their budget at this time. There's also an empty space next to us in the back of the building. The landlord has indicated an interest to keep a spot open in case the new tenant wants a sign. If you look at the picture at the top right, you can see the sign. You can see me holding a yardstick up. I was trying to replicate 7 ft. I'm holding a little red stick. That's about 7 ft. The sign itself is about 14 ft. So you double that to get the top of the sign.

If you look at the bottom of the picture, the one on the bottom right, you see three wooden poles or wooden stakes driven into the ground with orange spray paint on them. Those were put there by Atlas Land Surveying of Northborough and indicate the lot line. In the bottom picture, the top most stake is the corner spot for the lot.

If you turn the page to Page 3, again, you would see three stakes, but the last stake is kind of hidden. Now, you're looking in the other direction. You're looking towards the east. The first stake that you see on the bottom is the corner of the lot. The block there is there by accident. We were going to use a sign vendor, a local one. Unfortunately, he told us that he was going to get the permit, that we didn't need a variance and we didn't need a survey. Unfortunately, those were not the case. We had to not engage with that sign vendor. We're using Expose Signs, who are currently of Northborough, because they actually know what they're doing. Unfortunately, we have not received our deposit from that previous sign vendor, which leaves us to the hardship.

The hardship is, again, if you look at the Thompson Liston map, we are in the back of the building. If you look and squint you can see the word entrance. That's where we are. We have no sign currently. Nobody knows we're there. There are a couple of neighbors that have very good signs, such as EZ Storage, Ferrari Spa & Pools, Ashford Crossing and Shrewsbury Commons, right there on the road, very visible. We would be at a significant hardship because being in the back of the building nobody knows that we're there.

Another issue is, if you look at, again, the third page, the lot goes downhill. From the first page, from left to right, it goes downhill. If you're looking for us, that stretch of road is 55 M.P.H. We've got 300 ft. to slow down in and that's if you know that the driveway is there. You're not going to know that unless the sign is right in front you saying please turn soon or else you're going downhill and accelerating. So, that's a safety issue, a significant hardship for our customers when they're looking for us, which brings us to the next point which is the topography of the lot.

Again, it's not good and it's specific to our location. These other locations that I've mentioned either have flat lots or they're looking up hill so that they know they're there. If you're at South Street looking at Ragsdale, you don't need a lot of notice. You can see the whole lot from there. For us, if traveling east, again, this is a divided highway, you don't see us until pretty much you're past us. So, we propose that the sign be at the top of the hill for safety reasons and visibility.

If we were to go, again, the literal enforcement, 25 ft. from the lot line, which is that corner if you turn the page to Page 2 in that picture, I think we would be behind some trees and behind a telephone pole. No one would pay attention. It wouldn't serve its purpose. In other words, other lots don't have this issue. It's specific to our lot. Those are the topography issues.

If you grant this variance, it would not be to the detriment of the public good or derogate from the intent or purpose of the bylaw. Again, if you look at the top right picture on Page 2, if you put the sign there, which is 1 ft. back from the lot line, you have plenty of space between the paved road of Route 9 and the sign. I believe the intent of the bylaw is to make sure that all of the signs on Route 9 are not piled right on top of Route 9, maybe a foot away. In this case, it is not. In fact, we would be in line with the other signs on Route 9. Some of the lot lines are much closer than where we are. Our lot line is further back. It's 25 ft. from the road. I believe others are maybe 15 ft. from the road. Some would even be closer than we are if you grant us this variance.

Finally, for the public good, it enhances safety. We don't want people slamming on their brakes, doing funny U-turns down Route 20 and so forth. So, for the reasons of the hardship, we're in the back of the building, specific to our lot and the fact that it doesn't derogate from the intent or purpose of the bylaw and it enhances the public good. We respectfully ask for a variance for placement of this sign 1 ft. from the northerly lot line at the northwest corner of our lot.

Mr. George: I have a question.

Mr. Rosen: Go ahead.

Mr. George: I have a question in regards to the sign being placed where it is. The wording on the sign doesn't state where the building is. If someone sees the sign, they can't see the building with all of the trees. So, what purpose is it serving in the location that it's in? It doesn't indicate where your building is. They can't even see the building.

Mr. Chan: You're saying as they approach the sign looking for the building?

Mr. George: Right.

Mr. Chan: Well, if you look at Page 1, the first page, when you pull into the driveway, we're going to have a little sign saying go to the back. Even on our websites we're telling people that we're in the back of the Apple Spice building. The building in front of us, the one before you reach that sign is Transxenogyn. There's nothing there. There's a "For Rent" sign there. There's no other spot for us except going past and looking at the four red brick buildings.

Mr. Confalone: I have a question. Are these trees in overgrowth in this picture on your property, on your landlord's property?

Mr. Chan: Yes.

Mr. George: Is there any way of maybe having that removed?

Mr. Chan: They did remove a lot of them.

Mr. George: They did?

Mr. Chan: They did. This is what resulted.

Ms. Huban: Didn't they say that they would mulch it?

Mr. Chan: Yes, they will mulch it. They will make it look better than this.

Ms. Huban: They said that they would mulch it.

Mr. George: Then you would be able to see your building and the sign would serve the purpose there.

Mr. Chan: Yes. There's a lot of poison ivy. They're going to take care of that.

Ms. Huban: Yes. They wanted to wait until we were ready do it to clear the area. They said that they would mulch it.

Mr. George: And they would maintain it?

Ms. Huban: Right, as part of the grounds.

Mr. Alarie: Pictorially, if you look at the placement of the sign, it's on the Transxenogyn property line. Because of the overgrowth that is there, they wanted to visually represent the appearance of the sign.

Mr. George: Where the sign is, right. I understand that.

Mr. Alarie: The configuration of the sign, when it gets placed, will be on the opposite side of all of that growth.

Mr. George: Oh, so it's going to be on the opposite side of the row?

Mr. Alarie: Of this hedge row here, yes.

Mr. Chan: It's not even the hedges or anything. It's the poison ivy type of stuff.

Ms. Huban: It's back another few feet where he's standing with the pole.

Mr. Chan: Actually, it's back where I'm standing.

Mr. George: Oh, okay.

Mr. Schaetzke: Where are you standing?

Mr. Confalone: I can't see him either.

Mr. Gordon: I can't either.

Ms. Huban: It's the little dot of orange.

Mr. Confalone: There's a little orange line there. Is that you?

Mr. Chan: That's me. I'm only 5 ft. 7 in.

Ms. Huban: He was trying to show half the height of the sign.

Mr. Confalone: So, the sign will be on that side.

Mr. Gordon: I'm sorry. Do you have your landlord's permission to do this?

Ms. Huban: Yes.

Mr. Chan: Yes. We have a signed letter.

Mr. Gordon: You have a signed letter, okay. That was my question.

Ms. Huban: Well, the letter that we had submitted, she did it by email so it wasn't literally signed but we have the signed one if you want.

Mr. Gordon: We might want to put it in the file.

(Ms. Huban presented the letter to the board.)

Mr. Gordon: Is this going to be an illuminated sign?

Mr. Chan: Yes.

Mr. Gordon: Back lit or how?

Mr. Chan: It's internal.

Mr. Gordon: Internal lighting?

Mr. Chan: Yes, double sided.

Mr. Gordon: Okay. I have no further questions.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

#### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Tin Y. Chan and Kimberly A. Huban, d/b/a Pump It Up of Shrewsbury, 4 Carruth Drive, Northborough, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-4a, to allow the installation of a sign 1 ft. from the southerly sideline of Boston Tpke. upon property located at 810 Boston Tpke.

On May 9, 2006, the board granted the appellants' appeal to allow approximately 10,000 sq. ft. of the building situated upon the subject premises for use as a recreation facility for children and to conduct private social events in conjunction therewith. They noted that Mr. and Mrs. Huban's business is located to the rear of the building and, furthermore, that the site itself is located just beyond a crest in the eastbound lane of Route 9. They found that these two conditions significantly reduce the exposure of the building and their business to motorists traveling in that direction. It was their opinion that, in this instance, the literal application of the terms of the Zoning Bylaw would impose a severe hardship to the appellants in their attempt to properly identify their business. They found that, with the placement of the proposed sign about 25 ft. back from the actual paved edge of the roadway, the granting of the relief requested would not seriously depart from the intent of the bylaw and that it would promote the interest of public safety by better identifying the location of the business to the high speed traffic of Route 9. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes

Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Omnipoint Communications, Inc., a wholly owned Subsidiary of T-Mobile, Inc., 28-40 North Quinsigamond Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Omnipoint Communications, Inc., a wholly owned Subsidiary of T-Mobile, Inc., 100 Filley Street, Bloomfield, CT, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the installation of wireless communication antennae upon property located at 28-40 North Quinsigamond Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 31 as Plot 187.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

Atty. Rugman: Good evening Mr. Chairman and members of the board. My name is Kate Rugman. I'm an attorney representing Omnipoint. I was here before your board several months ago for an installation for the same client at the church. I think that's actually in the midst of being built, it's my understanding. Again, just for background information, the legal entity is Omnipoint Communications, Inc., but it's more commonly known as T-Mobile.

We're before your board tonight. We submitted a packet of information but to reiterate for the record, the property, as you said, is on Quinsigamond Avenue and it's owned by the Shrewsbury Housing Authority. We do have permission from the Shrewsbury Housing Authority to utilize the site should it get approved as a wireless communication facility. That is in your packet of information but just so that you have it for the record, this is the authorization letter. As I said, the same thing should be in there, but just so that you know, we do have approval.

(Atty. Rugman presented the letter to the board.)

Also, as part of the background, one of the reasons that we chose this building for an antenna site was because there is, as you can see on the plans that were submitted and this plan here, obviously a bigger one, this is the greater frequency here. Have you seen it? Getting back to why we've chosen this building, this building already is an approved use for a wireless communication facility. In your bylaw, it requires a special permit. Nextel Communications is already located on the rooftop. There's a penthouse on that roof. I believe that they have twelve antennae total on that panel antennae. At the base of it on the other end, and these are the same plans that were submitted that you should have, you should have a picture of it, they actually built a shelter at the base of it and fenced it in with a wood fence.

We're proposing to put cabinets at the base at a different angle on the other side of the building. We wouldn't need a shelter. We would need three cabinets, telephone cabinets which are a little bit smaller. Our proposal on the plan is to actually put an 8 ft. stockade fence around that. Again, it's a proposal. Should the board have any other reasons to change it or want something different, we certainly would be amenable to that. In addition if you wanted some sort of landscaping around the fence, we're amenable to that.

The reason that we propose this site is because it already, as I said, was approved by this board for a wireless facility. The engineers search an area as to where they're trying to get service for T-Mobile. The radio frequency plots that were submitted shows, again, if you have any more specific questions about it, we can answer that, but there is a gap in coverage in that area that we're looking to try and fill. If you look on your plots, there's sort of a white area and then this pink is actually what is going to be should the site be approved.

Again, back to the actual proposal. Because this penthouse is taken up by Nextel, there wasn't space for us. They have to be separated by a certain amount. So, there wasn't space to put them on the penthouse so our proposal is to go above the penthouse. The penthouse roof, I think, is 9 ft. high. The antennae, as shown on the plan that you have, are three antennae and a canister on top of the roof, a shrouded antenna and a canister on top of the roof. I do have a photo simulation sort of showing photos of the building. As I said, this is actually showing what is up there right now. This is the before.

(Atty. Rugman presented the pictures to the board members.)

There's sort of noted on the plan that that there are cable TV antennae that are there for some of the people that actually live there. I know there is discussion about whether or not they would actually be removed or not, depending if they're still active and they're obviously not going to be removed if they are. The simulation sort of shows that they're down, but they may actually stay there. This picture right here, which depicts it better, is actually the back of the building that I mentioned where Nextel already has a shelter with a fence around it. We actually would be proposing to put, as I mentioned, cabinets here because they could be either indoor/outdoor type. We don't need to build an actual shelter. I think that the cabinets would be well less than 8 ft. I think that they're 6 ft. So, the 8 ft. high proposal is actually going to shield any view of the cabinets themselves.

Again, that would be located in this area of the building. Not to take up too much of your time, obviously I'm here seeking a special permit. It's enumerated in my brief of information as to why we feel that it's an appropriate location. It's an unmanned site. It doesn't require any town services other than power and telephone. It doesn't create any more traffic. It's monitored twenty-four hours by a remote switch location. Any vehicle access would be routine maintenance, probably once a month. We believe that it's a direct benefit to Shrewsbury, the residents and/or commuters and businesses to have better coverage in the area. With that, unless there're basically questions for me or any people in attendance, that is what we propose to do.

Mr. Confalone: I was just looking at your before and after picture and would just like to kind of see in the after picture where the antennae are. You did a good job of hiding it because I can't tell the difference. So, that's what it is right there?

Mr. George: Yes.

Atty. Rugman: These are Nextel's antennae. What I was mentioning is that there are TV antennae there. They may end up staying there. They were taken out of the picture, I guess, to show it even more so, but these may actually still even stay there because that's an issue between the landlord and I believe several older people who probably still use their cable or that type of system.

Mr. Rosen: Over the air broadcast.

Atty. Rugman: Right. Certainly, we would not force them. If the antenna are dead, maybe they would be willing to take them down, but if they're actually active, they're going to stay there. It was more to show a clear representation should they come down. As I said, I don't know whether you heard about the cabinets, but Nextel needs a shelter because of the way that they configure their equipment. It's more equipment and they need more shelter. T-Mobile doesn't need a shelter. They have three radio cabinets that are at the base, as I mentioned, over here. The proposal would be to shroud that in with an 8 ft. high stockade fence similar to what's here. I'm not sure if that's 8 ft., but our proposal was 8 ft. in order to be above these cabinets.

Mr. Schaetzke: Structurally, how large are those cabinets?

Atty. Rugman: The cabinets are 83 in. high by 52 in. wide. That's on the plan also, just on a different page. As I said, we are in your town in other places. The church, which was approved by this board, is being constructed. The engineer can speak for us specifically if you have questions about what this is connecting to more specifically than me.

Mr. Rosen: Is the white area no coverage?

Engineer: The white area, yes.

Mr. Gordon: Is there a repeater antenna on this building currently?

Atty. Rugman: A what? I'm sorry.

Mr. Gordon: A repeater antenna, the one that the police and fire use.

Engineer: I wasn't actually on that rooftop.

Mr. Alarie: Mr. Ricker who, I believe, is chairman of the Housing Authority, is here and I believe he indicated that they offered one.

Atty. Ricker: Yes. I believe that the last time when Nextel was before you, Mr. Gordon, the offer was made that, if the town wanted a repeater antenna, they could have one.

Mr. Gordon: Okay.

Atty. Ricker: I don't think that that would be an issue anyway.

Mr. Gordon: How long is your lease, if you don't mind my asking?

Atty. Rugman: There are two issues. One is proprietary, so I probably can't answer that.

Atty. Ricker: But, I can.

Atty. Rugman: I do other things besides work for these clients, but because they're building on a network, they typically want a long term lease meaning ten, twenty, twenty-five years or so.

Mr. Gordon: That's fine enough. Let me tell you the reason for my question.

Atty. Rugman: Okay.

Mr. Gordon: You're suggesting a stockade fence against a brick building and it becomes a maintenance problems. Would you consider a panel fence of some type that fit in more with the appearance of the building?

Atty. Rugman: As I said in my opening, I don't think that the client necessarily needs to do a fence. If you think that there's something really specific that you think is going to look that much better, we are amenable to that. One of the reasons I think they put the stockade fence on the plan was because they were going off a previous design.

Mr. Gordon: I think that you'd be replacing it every four to six years. A panel fence of some type, I believe, would be better. If you look across the street at where Papa Gino's is, Mr. Shore fought with me like crazy, but he eventually put up a panel fence of a type that matched his building. The maintenance is much less and it blends in with the building. Yours wouldn't be yellow or beige. I would hope that yours would be brick or something so that it would be unobtrusive for people coming in because you're right at one of the main entrances to that building. You're close to North Quinsigamond Ave. I think people of my extended years deserve driving into a place that looks like it's a million dollars even if it isn't so. If you would consider that, that's what I would like, but there are five of us.

Atty. Rugman: As I mentioned, also, it looks as though this has shrubbery around it. I don't know if they were conditioned to put that arborvitae or some other type of landscaping around it.

Atty. Ricker: They were.

Atty. Rugman: I also mentioned in my opening that we would certainly agree to, within reason, put in whatever you would like to see there.

Mr. Gordon: With the paneling, you might not need it.

Mr. Alarie: The reason for that is that the cabinet was in closer proximity to the abutters on Olympia Ave. I think, to satisfy some of their concerns, the screening requirements were imposed in the decision on the last granting.

I'm having a little trouble deciding where the new cabinets would go with respect to the building orientation. It's at the opposite end of where they are now?

Atty. Rugman: Right.

Mr. Alarie: Okay, closer to North Quinsigamond Avenue?

Mr. Gordon: It looks like it's on the side, Ron, where the maintenance trucks go in the back there.

Atty. Ricker: It's on the rear jog of the North Quinsigamond Avenue.

Mr. Alarie: Okay, so close to Olympia Ave., again?

Mr. Gordon: Yes.

Atty. Rugman: Again, they did put that in the plans. I wasn't the engineer. They did look at trying to do something here, but there just wasn't enough space. That was why they went to that alternative location. Actually, I think the roof already has vents and fans and different things so one, it would probably be more visible on the roof, the cabinetry, and two, the roof probably was cluttered up with bands and pipes and things like that and also there may be a weight issue structurally. So, that's why the alternative location for the equipment. Again, this is obviously approved by the housing in conjunction with their meeting with the engineers and the people who design it.

Mr. Alarie: So, Mr. Gordon, something similar to the previous decision, but maybe a vinyl fence as opposed to a wood fence?

Mr. Gordon: I don't like vinyl.

Mr. Alarie: What would you like?

Mr. Gordon: I like something like what was done over across the street which, basically, I think, has stucco on the outside or something like Brick Master or something.

Mr. Alarie: That's the enclosure that you're talking about for the dumpster?

Mr. Gordon: Yes. That one is 10 ft. tall. This one would be seven or eight. This would be much smaller. It would only have a man door in it that would be used occasionally. It's a three sided structure, I believe.

Atty. Rugman: Is it fencing or is it separate?

Mr. Gordon: It's a façade.

Atty. Rugman: But, you're looking for it to go around the whole area?

Mr. Gordon: Well, you're going up against the building on one side.

Atty. Rugman: Right, right.

Mr. Gordon: So, you would only need three sides, one with a door.

Atty. Rugman: Right, right.

Mr. Gordon: Yes.

Atty. Rugman: You just mentioned a door?

Mr. Gordon: I want it to blend in with the building so that, when I look at it from the street as I drive by it every day, I won't even know it's there.

Atty. Rugman: I don't think that we can promise that, but we can try.

Mr. Schaetzke: When we're talking about fencing, as Mr. Gordon was saying, we're talking about three sides of fencing with a gate and or door, correct?

Mr. Gordon: Yes.

Atty. Rugman: Well, one of the reasons they want a gate is for security reasons anyway.

Mr. Schaetzke: It's got to have some sort of a gate for access.

Atty. Rugman: Exactly.

Mr. Schaetzke: What are the dimensions that we're talking about?

Atty. Rugman: It's a 10 ft. by 20 ft. leased area that they leased out so that's what they're looking at.

Mr. Schaetzke: So, it's 10 ft. out from the building and 20 ft. wide or the other way?

Atty. Rugman: I think that it's 10 ft. out, yes.

Mr. Schaetzke: Ten feet out and twenty feet wide?

Atty. Rugman: Yes.

Mr. Gordon: Because there's not an awful lot of land there.

Mr. Alarie: Mr. Gordon, in lieu of something like that, if they wanted to put something like a 6 ft. chain link fence for security purposes but then a dense planting outside of that, that might be a little bit more pleasing than having them erect some kind of structure that might not totally blend in with the building, is that acceptable?

Mr. Gordon: That would be acceptable. I just don't like vinyl. In a year and a half, it looks like it's a slum.

Mr. Confalone: It fades.

Mr. Gordon: Yes. I just want something that's going to last the first term of their lease.

Mr. Rosen: Okay.

Atty. Rugman: In answer to your question sir, it looks like it's 10 ft. out this way then 20 across. This is the building so the 20 ft. would be over here. It looks like this is the building.

Mr. Schaetzke: Right.

Atty. Rugman: It's 10 ft. here so it would only be whatever that is here.

Mr. Gordon: Will 10 ft. take you out to the asphalt? Mr. Ricker, do you know? Does 10 ft. take them out to the asphalt?

Atty. Ricker: I don't believe that it does, Mr. Gordon.

Atty. Rugman: No.

Atty. Ricker: I don't believe that it does. You know, they're in that jog of the building, it's my understanding.

Atty. Rugman: No, because I think as you look at this, again I apologize because I didn't flip the plans, but this looks like maybe that's an access type of thing so I don't think that you are at the pavement.

Mr. Gordon: Okay.

Mr. Schaetzke: My concern with the stockade fence is the same as Mr. Gordon's and that is that they require a lot of regular maintenance.

Atty. Rugman: As I said, it was proposed more to mirror what was there.

Mr. Schaetzke: Yes, but this is the more visual side of the building.

Atty. Rugman: Right, right. I understand that. I'm just saying simply that they just mirrored that.

Mr. Schaetzke: I like the idea of whatever the owner of the property would prefer. That would be my ideal solution. Does the owner of the property have any comment in that regard?

Atty. Ricker: We've had considerable discussion about this issue because it was facing the main road and because of the neighbors on Olympia Ave. We felt that the stockade

fence would suffice together with plantings in keeping with the other plantings around the building. We did speak to T-Mobile about that and suggested that that would be something that we would like to see as a condition of this, if the board saw fit to allow it, because that would allow us to also keep them maintaining the fencing. One of the objectives here is to keep it from looking in any way offensive to the people who live there because this is their home. We have one hundred people living there. This is the home that they drive into every day so it's important. Anything that you can do to make it less intrusive the better, but we felt that the stockade fence would do it together with some appropriate plantings, not paying too much attention, Mr. Gordon, to the maintenance issue of a stockade fence. I think that a chain link fence at that particular spot might not look so good, frankly. We were trying to shield it in a manner that would kind of blend with the building. I don't know what the cost is of what Mr. Gordon is talking about, but I understand what he is saying. Obviously, we would encourage T-Mobile to do anything to blend it as well as it can be with the façade of the building.

Atty. Rugman: I would say this, I mean, if the condition is such that we do a fence similar to what you're talking about, which I apologize that I'm not seeing it visually, I don't know, as you said, would it then be conditioned also to do the arborvitae? Obviously, it seems like you're doing the fence and not the arborvitae. That would be something that certainly, from the client's perspective, wouldn't seem reasonable to also condition the expense of arborvitae and maintaining those.

Mr. Gordon: My idea was a façade without the arborvitae. The façade would blend in with the building.

Mr. Rosen: What do you prefer?

Atty. Ricker: My concern with that is that there are plantings around the building. They're mature plantings so we were encouraging, in fact, counsel may not know this, but on the signing of the lease, we also had a letter agreement that there would be plantings around this because we were concerned that we wanted it to fit in. Frankly, arborvitae don't cost a lot of money.

Atty. Rugman: No, no. I understand that.

Atty. Ricker: We didn't look at it as a big expense. We just looked at it as something that we wanted to have blend in. I wouldn't think that the arborvitae or any kind of rhododendron or anything around that small enclosure would not be a great expense to anybody, quite frankly, under these circumstances. So, I, frankly, would like to see both an enclosure and plantings.

Atty. Rugman: Is your preference, though, an enclosure similar to what the board wants?

Atty. Ricker: I don't know what the cost is. I haven't even seen what he's talking about.

Atty. Rugman: Yes. It's hard for me to visualize.

Mr. Rosen: So, a stockade and plantings is good for you?

Atty. Ricker: Yes.

Mr. Rosen: Okay.

Atty. Ricker: We would expect it to be maintained and that's why part of our agreement with them is that they maintain it.

Mr. Rosen: That's in your agreement with them? They're going to maintain it? Good enough.

Are there any other questions? Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Omnipoint Communications, Inc., a wholly owned Subsidiary of T-Mobile, Inc., 100 Filley Street, Bloomfield, CT, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the installation of wireless communication antennae upon property located at 28-40 North Quinsigamond Ave.

Upon review of this appeal, the board noted that on August 30, 2000 a special permit was issued to Nextel Communications to allow the attachment of wireless communication antennae to the rooftop penthouse of the eight story multi-family residence situated upon the subject premises. This site, which is owned by the Shrewsbury Housing Authority, also contains an enclosed equipment shelter positioned at ground level to the easterly side of the building. It was noted that the existence of the Nextel's antennae has not generated any adverse public concerns from either the general public or area residents.

With respect to Omnipoint Communications presentation, the board concluded that the inclusion of another wireless communications facility at this site was in concert with the intent of the Zoning Bylaw in permitting the placement of such facilities upon existing buildings or structures. They found that the installation of 3 additional antennae upon the rooftop of the aforementioned penthouse would serve the overall purpose and intent of the by-law, provide enhanced service and coverage to Omnipoints' customers and that the siting of the of such antennae thereon would create any condition that would detrimentally affect the welfare of either the general public or the neighborhood. They felt that the location of the antennae on the rooftop and the related equipment behind a fence at the side of the building would help to minimize any visual impact to this site or abutting properties. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the requirement that the ground shelter shall be enclosed with a minimum 6 ft. high stockade-type fence. There shall also be a dense planting around the exterior of the fence consisting of arborvitae or similar evergreens that will provide year-round screening.

### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: J. Thomas and Donna B. Grisso, 4 Candlewood Way, Shrewsbury, MA.

PURPOSE: To hear the appeal of J. Thomas and Donna B. Grisso, 4 Candlewood Way, Shrewsbury, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the construction of an addition 12 ft. from the side lot line of property located at 4 Candlewood Way. The subject premises is described on the Shrewsbury Assessor's Tax Plate 14 as Plot 12-13.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on September 5, 2006 and September 12, 2006.

Mr. Rosen: Would you please state your name for the record.

Mr. Grisso: My name is Tom Grisso; this is my wife Donna. Thank you for listening to our appeal. We've lived at the property at 4 Candlewood Way down at the bottom of Sewall Pond for almost twenty years now.

Our request is related to the desire to build an addition 18 ft. by about 26 ft. on the right side of the house. The 18 ft. part is what stretches out to the right side. This is, of course, a Rural-B Zone with a 30 ft. setback. This would require going out so that there would only be about 12 or 13 ft. left between us and the side line. Let me, by the way, apologize if any of this sounds familiar.

Mr. Rosen: We approved you in 2000.

Mr. Grisso: Four years ago this was approved.

Mr. Gordon: Is this the same proposal?

Mr. Rosen: Is this the exact same proposal?

Mr. Grisso: This is almost exactly the same. The room is a little smaller than it was four years ago in our heads. This was a deal where there was a change in family situations. We were thinking about bringing my parents. That situation changed so we didn't file the building permit in the year and it lapsed so that's the reason for re appealing, basically. I apologize for that but it was a family situation.

Just to, in that case, refresh you it's a one story addition. It is entirely either bedroom or family room depending on whether we change the family room that's in the house into a bedroom. We'll have that alternative. There are no kitchen facilities here. The entrance is from the house, a sliding door on the right side of the house with another entrance in the back onto a deck. So, it retains a one-family dwelling kind of situation.

The hardship part of this is that, as was suggested four years ago, the other way to do this is off of the back of the house. That sticks out into the backyard quite a ways kind of dividing the backyard. About, roughly, 35 ft. out our property drops off very abruptly, very steeply to a brook that runs out of the bottom of Sewall Pond so that it does dramatic things to the usage of the backyard. On the right side are woods. The woods are owned by our neighbors who we've talked to and they're fine with this. The geography of the woods is such that it's not likely to ever be developed.

The front of the house, the addition itself, would simply look like an addition to the house. It would be very much the same kind of pitch of the roof and so forth except that it would be one story. I think that's everything that I intended to provide you. I'll be happy to answer any questions that you have.

Mr. Rosen: Do you have any drawings or anything?

Mr. Grisso: I do have a sketch that I did this weekend.

Mr. Gordon: Is this still inside the stockade fence?

Mr. Grisso: Yes. Well, the stockade fence is no longer on that side. There was a stockade fence on that side. We moved the thing back but it would be just where that stockade fence was or up to that.

(Mr. Grisso showed the sketch to the board members.)

This is the addition right here.

Mr. Rosen: You're going to be matching the siding and the existing?

Mr. Grisso: Yes, exactly. In fact, I think that we're going to get vinyl on the whole house at the same time or about that time.

Mr. Rosen: Okay.

Mr. Schaetzke: This is the existing family room?

Mr. Grisso: That's the existing family room, fireplace, sliding door.

Mr. Schaetzke: That sliding door exists now?

Mr. Grisso: That exists now and that will be turned into the entrance to this. The deck will have to be changed. The deck now goes back here where that sliding door is. The addition will have a back entrance to the deck. The fence runs along here and then back.

Mr. Rosen: Any one else? Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

#### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of J. Thomas and Donna B. Grisso, 4 Candlewood Way, Shrewsbury, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the construction of an addition 12 ft. from the side lot line of property located at 4 Candlewood Way.

Upon review of this appeal the board noted that, in October of 2002, the appellants were granted similar relief to that which is requested in this appeal; however, they were not able to exercise those rights within the statutory timeframe set forth in Chapter 40A and those rights lapsed. They now propose to commence with their plans to construct a somewhat smaller addition to the northerly side of their home that would extend to within 12 ft. of their side lot line.

As noted in their previous decision, the board found that due to the shape of the subject parcel and its varying topography, that the literal enforcement of the literal terms of the Zoning Bylaw would impose a significant hardship to Mr. and Mrs. Grisso in their attempt to expand their home. They felt that the granting of the relief requested in this appeal would be substantially consistent with that which was provided the appellants in 2002 and that the reduction of the setback and the construction of the addition would neither seriously depart from the intent of the bylaw or adversely affect the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Select Auto Sales, 421 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Select Auto Sales, 421 Boston Tpke., Shrewsbury, MA, to amend the special permit granted on August 13, 1986 permitting the sale of motor vehicles upon property located at 421 Boston Tpke. to now allow the display/storage of 34 vehicles thereon for said purpose. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plot 311-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 9, 2006 and October 16, 2006.

Mr. Rosen: Please identify yourselves for the record.

Atty. Byrne: Good evening Mr. Chairman and members of the board. My name is Kevin Byrne. I am an attorney. To my left is my friend and client Moe Bayou who lives at 150 Memorial Drive here in Shrewsbury but all of us still call it Route 140 no matter what they want to call it anyway. He's been there for a whole bunch of years. Prior to that he purchased the property on Saybrook Road and Route 9, which is the old Moreschi property. He bought it from Ann and Joe Moreschi who lived in the house behind where the auto sales place is now. This is the property that was originally the Moreschi Flower Shop years and years ago.

Back in 1986 somebody came in here at one point and got a special permit from the Zoning Board of Appeals allowing the sale of pre-owned, used vehicles on the premises with the limitation that there would be twenty vehicles that would be offered for sale and there would be no repairs conducted on the premises but the normal washing and waxing of vehicles would occur. That occurred in August of 1986. Moe bought the property. Select Auto Sales are two gentlemen. You have to bear with me; they're two nice looking fellows sitting in the back row. Hossein Khalili, the easy name, and Rahmatolah Ilkhanipour have been leasing the property from Moe for some period of time.

It was approximately in April that Moe and his tenants came before this board looking for an extension or an amendment to the special permit that it had, which is the twenty car limitation, and they were looking for thirty-five cars. They came in by themselves. I happened to be here that night and suggested that the presentation wasn't exactly in great detail. What you folks did at that point is considered it and permitted an extension or an amendment to allow them twenty-five vehicles and then no washing of cars on the premises. That never went to decision. Basically, Moe came back at some stage and asked, in effect, to be allowed to continue that decision. You folks by, I think, a unanimous vote at that time allowed that.

Mr. Rosen: They withdrew the petition.

Atty. Byrne: What?

Mr. Rosen: They withdrew the petition.

Atty. Byrne: I'm sorry?

Mr. Rosen: They withdrew the petition.

Atty. Byrne: Yes, they withdrew the petition and you folks, again, permitted it so there was an allowance of twenty-five vehicles, no washing of vehicles on premises.

Moe called me and I went up there sometime during the course of the summer when the weather got better. I candidly looked at the premises and talked with Moe, talked with the folks that are running it now. Amazingly, Moe and I took a bunch of pictures. What

I can tell you is the lot itself, which I'm sure you're familiar with, it's right on the corner of Route 9 and Saybrook, is 13,600 sq. ft. I know that in my application I suggested approximately 13,000 sq. ft. but it's 13,600 sq. ft. There's a building that I said was 900 sq. ft. that's on the premises. The building is 822 sq. ft.

I walked around it; I looked at it. I bore in mind what you folks had suggested about the premises and the limitations of it. Candidly, I came to the conclusion, and I think that Moe did and the folks that were there beforehand, that one, it's difficult to operate this type of business with a twenty or twenty-five limit. We literally went through it step by step and determined that there is more than sufficient space, Mr. Chairman and members of the board, to accommodate thirty-four cars for sale with more than adequate parking for customers who came into it. I organized this earlier this afternoon. I hope it works. I think that you have this plan. This is part of it here.

Mr. Rosen: Yes, we do.

Atty. Byrne: I think you have this already but I'm going to give it to you again which is the plan that Moe put together that you didn't have the last time that we were here.

(Atty. Byrne presented the materials to the board members.)

Then, what we did is we took a whole bunch of photos. I'll see if I can line them up for you. Again, if you look at the lot realizing that it's 13,600 sq. ft., it's asphalt and it's all very, very flat, all very, very useful. If you look at, for example, the parking along it, again, these are in total conformity with the bylaw. They're 16 ft. 8 in or 16 ft. 9 in. spaces, as such. If you look at the first seven right along Route 9, the ones that are labeled one through seven, the afternoon that I was up there I went through it. There literally were seven cars that were parked along there. There's one photo, this is another one that shows most of the seven along the front. So, the issue along the front space, bearing in mind there's a sign that eliminates a potential parking space, there is more than sufficient space along the front for those seven cars that could be offered for sale on the premises.

If you then look at the side, the side closest to the westerly side of the property with the Spanish building that's next door to the office building that's there, if you look at that and you're looking at spaces eight through nineteen, there are eleven parking spaces that I suggest to you are more than appropriate there. I think that at that point there were pretty much many of the spaces that were filled. The ninth one is a very large Lincoln Town Car. There are literally nine there at that point.

Mr. George: Kevin, those go along the side?

Atty. Byrne: This is the side to the west. This is eight. If you look at it on this plan it's eight through eighteen. It's that section on the westerly side of the property.

Mr. George: Okay.

Atty. Byrne: So again, if you run along there, there really and truly are more than enough room for the spaces there. Folks, if you then look at the plan and you look at the spaces

to the rear of the property, this is the property back towards Saybrook and the house that Moe lived in for a period of time, and you look at the spaces nine through twenty-six and the storage area tucked away in the corner, the day that I was up there there were no vehicles there but there were lines in it. That picture shows you the back of it but this picture shows a substantial part of the back of the property, the rear part. That's the westerly side. No, that's the northerly side of the property, the back part of the property.

Mr. George: Kevin, on this picture here?

Atty. Byrne: Sure.

Mr. George: Were these cars there at the time?

Atty. Byrne: All of these cars were there at the time, the day I was there, the afternoon that I went up there.

Mr. George: Okay, so this is the very edge of the last car in the row on the side?

Atty. Byrne: No, no. This is...

Mr. George: This is the rear?

Atty. Byrne: This is the rear.

Mr. George: This is the side right here?

Atty. Byrne: This is the side. This is the rear. There were no cars there at the moment.

Mr. George: But, on the side there were?

Atty. Byrne: There were.

Mr. George: Okay.

Atty. Byrne: The cars that were there were there. But, this is the space along the rear. Moe and I literally walked it. I have a size twelve shoe, okay, so we literally walked out the numbers, parking spaces, and then Moe went back and put together the program, the plan as such, in conforming with the bylaw so that in nineteen through twenty-six there is more than sufficient space without affecting the driveway that goes out to Saybrook in any fashion.

Then, if you look at the plan and you look at twenty-seven and twenty-eight, those are two spaces behind the building. There are two spaces there. Candidly, when we did it you can only see the one but this is, again, the rear part of the property and this is the building itself to the right in this photograph. There were two photographs, even though it looks as though there's only one that fit right into that aspect of it. This is, again, another picture showing the rear of the 822 sq. ft. building which shows just a green van, believe it or not, there was one beside it that fit in there.

If you look to the front, I'm overwhelming you with photographs, and you look at the diagram or the plan, you look at spaces twenty-nine, thirty, thirty-one, thirty-two, thirty-three and thirty-four, six. This is a photograph of the front of the building which, candidly, is in very good shape. I looked at the outside of it; it's in nice condition. The inside of it is a nice office. Then basically, there were literally five cars out there. I took the picture but one of them parked straight out.

What we're suggesting could be done very easily for cars for sale. You could do four cars facing into the building and then two angled as it shows on the diagram as thirty-three and thirty-four. I think that if you look at this photograph you will see this car, which I think is Moe's car, basically two cars can be parked facing into that building and it accommodates that number of cars up to the thirty-three and thirty-four.

Then, having talked with the two nice folks who are running the place about how many people are driving in there at any time looking to buy cars at any particular point, the max that you are going to get at any particular moment are four. So, if you look to the spaces on the diagram which are to the left of the building itself, to the westerly side of the building, we've accommodated four spaces there.

Mr. Rosen: Where do the employees park?

Atty. Byrne: I'm sorry?

Mr. Rosen: Where do the employees park?

Atty. Byrne: Where do the employees park?

Mr. Bayou: They drive a car with a dealer plate. They drive one of the cars.

Atty. Byrne: So, we've got four of those. This is a photograph showing that side of the building that can accommodate four of those. Did I give you that one already?

There was concern expressed whether there were any environmental issues with reference to the washing of cars that were there. The original 1986 grant permitted the normal washing and so called waxing of cars. I went upstairs; I talked with Jack and Eric and I talked with Brad. I said, you know, are there any issues with reference to the runoff of water from this if there is the washing of cars that are there and was told that, I should have gotten some pictures of that, there is a drainage area right in the front of the building that accommodates Route 9 and also accommodates Saybrook and the rest of it and the runoff from that, which is mostly Route 9 rainwater or whatever comes off Route 9 in effect goes down for a period for a distance down along the edge of Route 9 and then crosses over and it's accommodated by very sufficient pumping that eventually winds up into a wetlands area on the southerly side of Route 9. Candidly, the folks upstairs, and I can put that in affidavit form for you if you would, would not be affected in any way by the occasional washing of vehicles on the premises. This also occurs with the place next door. There is another dealership to the east on the other side of Saybrook Road that regularly washes vehicles on the premises and also, that may be subject to something before this board at some stage.

So basically, bearing in mind the levelness of this lot, candidly, the openness of it, when I went up there and kind of walked around it with Moe and took my big feet and did the rest of it, it appeared as though thirty-four was, candidly, an appropriate usage for this area. The concern obviously is with twenty or twenty-four or twenty-five it is difficult for these folks to be able to accomplish what needs to be accomplished. I would respectfully suggest in terms of safety, in terms of the usage of the property itself and the availability of parking, which I think is more than sufficient, I think that it would be appropriate at this stage. I hope you folks would consider seriously looking at this in terms of an extension or an amendment to the original 1986 grant to allow the thirty-four spaces and the ability to wash vehicles on the premises.

Mr. Rosen: What do you do if there's a lot of snow?

Atty. Byrne: What?

Mr. Rosen: If you have a lot of snow, the snow storage area?

Atty. Byrne: It's hard to discuss, Ron, when you're out there in late August or early September.

Mr. Rosen: Right.

Atty. Byrne: What Moe said is that they've had some experience with that. That area over in the corner seems appropriate.

Mr. Bayou: Right. We can fill that area in there. If it's okay with the board, we can put it right where the grass area is, to the right of the building. If it gets overwhelming we can always have it trucked out. That wouldn't be an issue. But, that's a very large area that grass area there.

Mr. Rosen: The grass area is but what you have there for a snow storage area is pretty small.

Mr. Confalone: Yes, it's two cars.

Mr. Rosen: It's basically two-car spots, yes.

Mr. Bayou: Right. But, the grass area would be plenty. We can fill it up there. Again, we would not have a problem trucking it out if need be.

Mr. George: Are you talking about the grass area?

Mr. Rosen: Right on Route 9?

Mr. Bayou: No, on Saybrook.

Mr. George: Is that where the trailer is?

Mr. Bayou: No. It's to the right of the building if you're looking at it from Route 9.

Mr. George: Oh, okay.

Mr. Bayou: Right along Saybrook. That's a very large area along there.

Mr. Rosen: Mr. Gordon, you have some questions?

Mr. Gordon: I always have some questions. First, since the new tenants have taken over, have there been any violations of the cars?

Atty. Byrne: Yes, there has been a violation.

Mr. Gordon: Tell us about them.

Atty. Byrne: Okay. There has been one violation. Unfortunately, what happened is in June, basically, these folks got a delivery of vehicles. There are a lot of auctions and stuff. They got a delivery of a whole bunch of vehicles. They got schlepped on the lot. There was a complaint. The complaint was investigated by the police department. Candidly, before they received Dan Morgado's letter, which was on June 26<sup>th</sup>, they had remedied the situation by removing the vehicles but at that point there was a complaint that there were thirty-seven vehicles on the premises. Those were vehicles that were just unfortunately brought in there and dumped. I don't mean dumped in that sense but there was a delivery of vehicles that did not get out before there was a complaint, the source of which I do not know nor do I really care. But, basically, that was there; it was remedied. Candidly, it was remedied when the police officer was up there so that by the time that they received the official letter from Mr. Mordado and, this is in conformity with their cluster license through the Board of Selectmen, that situation had been remedied. To the best of my knowledge, I have the details of it and I kind of checked out. I said tell me if there were there any problems and there was that one event. I'm sorry; the event was in April but the official letter didn't come out until June.

Mr. Rosen: You would have been in violation at that point even if you had the thirty-four.

Atty. Byrne: I'm sorry?

Mr. Rosen: You would have been in violation at that point even if you had the thirty-four.

Atty. Byrne: Yes. The complaint was that there were thirty-seven vehicles.

Mr. Gordon: Snow storage, it's my understanding that both car lots dump their snow onto Saybrook Road. What's to say that you're not going to do that when you have less space to store snow?

Atty. Byrne: By you folks imposing a condition that the snow will be appropriately plowed onto the property itself or that if that's not possible is that one of the things you could do with a special permit is to require the applicant and the permit holder to physically remove the snow from the property.

Mr. Gordon: One of the concerns that I had last time, and I still have the concern, is when you wash a car you don't just get water you get grease, you get oil, you get salt and you get detergent. That wetland goes into Lake Quinsigamond I do believe.

Atty. Byrne: It actually doesn't, Mel.

Mr. Gordon: Where does it go; into Jordan Pond? Which one's worse?

Atty. Byrne: I went upstairs and I talked with Jack and Eric because I knew that you had raised that issue before and there was some concern of it. When I was out there and walking the property there are catch basins. There's one up closer to Saybrook and then there's one down right almost on the property.

Mr. Gordon: At the other building.

Atty. Byrne: Where seven is? No, actually, if you look at seven, where parking space seven is and that entrance and exit to the property itself, we walked down there. I almost got killed because I managed to get out into Route 9 at the time that I did it. There's an enormous catch basin there. I followed it down in front of that big office building as best that I could. There was an open area down there that apparently catches most of that office building stuff on the side of the hill. Then at some point, and I talked with Brad Stone about it, at some stage, somehow it gets across Route 9 to the other side of Route 9 to the southerly side of Route 9 where there is a substantial wetland area. Is that Bummet Brook over in there someplace?

Mr. Gordon: I have no idea.

Atty. Byrne: I have no idea what it is but there's an enormous wetland area over there that accommodates a lot of the stuff that's on that side of Route 9 and accommodates this. Most of the area that the town is concerned about is the runoff and where it's going from Route 9. It goes over into this wetland area itself and it is absorbed. That's not the right technical word but it literally goes into that wetland area because I had asked that question because Moe had called it to my attention that you had raised that issue.

Mr. Gordon: So, you're asking us to go from twenty cars to thirty-nine cars?

Atty. Byrne: Thirty-four.

Mr. Bayou: Thirty-four.

Mr. Gordon: Well, there are another five spaces that aren't marked with numbers.

Atty. Byrne: Yes, the additional.

Mr. Rosen: Four spaces.

Mr. Bayou: Customer spaces

Mr. Gordon: Thirty-eight spaces. I don't care whether they're numbered or not; they're spaces.

Mr. Bayou: That's just customer parking.

Mr. Gordon: That's still cars being put there.

Atty. Byrne: Yes, there are available spaces for so-called customer parking.

Mr. Gordon: Now, explain to me how this is less detrimental than what exists now.

Atty. Byrne: I guess the way that I have to phrase it, Mel, is that when you literally go out and you look at the site and you literally walk the site and you look at it and you physically place vehicles on it, in your mind or physically on the ground, and you look at a piece of commercial business property and you basically say can it accommodate this bearing in mind the purpose and function of this is folks who have a necessity obviously to make some dough, that's what commercial business people do, it probably would be less detrimental if it was a Starbucks or something else, but it is what it is and when I physically look at it and I look at the photographs, believe me, I'm not clever enough to kind of play with photographs, it was literally counting spaces and looking at the cars that were there, I'm looking at a space that even with the thirty-four "for sale" cars there is a substantial amount of property there that's still available. I wanted the photographs because when you look at the west side of it and you look at eight through eighteen and then you look at the building and all of the rest of you say well gee, that space doesn't look so big, but when you literally look at it on the ground, and I hope the pictures will show it a little bit better, it's a fairly substantial piece of property that's there. When you're talking about 13,600 you can say well okay, 13,600 doesn't sound like a lot of property until you look at it with an 800 sq. ft. building on it and a totally useful piece of property that has no down side to it. So, I don't know that it's necessarily a question of is twenty less detrimental than thirty-four. I think the question is this, bearing in mind, as an appeal group, you can look at it and say this makes it a useful economically advantageous piece of property without imposing any hardship on anybody. I know that we're not into hardships and I don't mean it from a hardship point of view but basically, when I look it it just works. It really does. It makes the folks who are using it for the purpose for which they're entitled to use it, bearing in mind the special permit use, I don't see that this causes any difficulty or problem whatsoever.

Mr. Gordon: How does increasing the number of cars and not doing any improvement on the land benefit the public as a whole?

Atty. Byrne: I don't know what improvements you can do with the land, Mel. I mean, it's a flat parcel of land with a very small building. It's asphalted; the asphalt is in good condition. I don't know that there's any way you can improve something. If you're talking about a usage which is basically the storage of a motor vehicle I don't know how else it can be improved. It's not a question of saying well you know, there's something disadvantageous; the entrance and exits or whatever are potentially dangerous and you should do something about eliminating a hill or an obstacle or something like that. It is an absolutely perfectly flat piece of land.

Mr. Gordon: You know, we're looking at the piece of land at the end of the summer and we're seeing what we want to see in the end of the summer. But, in the middle of December or January when we have snow on this lot, that 13,000 sq. ft. is probably 9 or 10 before you're done because you pile snow; you pack snow. You say we're going to take it away. Now, who's going to enforce that? I don't know? And the grass area, that's not going to be used for snow storage.

Mr. Rosen: I have a question.

Mr. Gordon: Go ahead.

Mr. Rosen: Could we condition it that it could be increased for eight months of the year?

Mr. Alarie: You can set any condition that you allow it during certain months of the year or not, yes.

Mr. Rosen: Okay. I also have some concerns with the way that you mapped out the spaces, numbers twenty-six and twenty-seven.

Atty. Byrne: I'm sorry?

Mr. Rosen: Spaces twenty-six and twenty-seven effectively block the driveway.

Atty. Byrne: Twenty-seven and twenty-eight?

Mr. Rosen: No, twenty-six and twenty-seven. You're effectively blocking the driveway there.

Atty. Byrne: I hope one of the photographs showed that because, again, when Moe came in he came in with another plan and it was a little more primitive than perhaps this was. I'm just trying to show in one of those photographs that that exit out to Saybrook...

Mr. Gordon: Which one, the closest to Route 9 or the back one?

Mr. Rosen: No, the back one, if you look at spaces twenty-six and twenty-seven, you're effectively blocking it.

Atty. Byrne: It's substantially wider than maybe it appears in the diagram. I'm sorry; I should have numbered these so that we know what we're talking about. There's one, Ron, that shows the back part.

Mr. George: It's this one right here.

Mr. Rosen: But, there's no car there.

Atty. Byrne: There's a clear one that shows it's this one. This is that back driveway out to Saybrook itself, it's actually lined on the ground, is basically like here. We probably should have stuck a car in here, but it basically isn't lined up with that. It's lined up over

here so you still have a rather substantial clear view and clear drive out to Saybrook itself.

Mr. Rosen: Thank you.

Atty. Byrne: I literally and truly said where can we put all of these cars without disadvantaging the property itself. Maybe this one might be a little helpful. When you line up real wide cars here and a building that's over here it accommodates these cars. You're talking about a rather substantial open space itself that's kicking around in here.

Mr. Gordon: Kevin, the last time that this came before us, which was what, in April?

Mr. Bayou: It was January.

Atty. Byrne: Was it January?

Mr. Bayou: It was January.

Mr. Gordon: All right. There were substantially more cars on the lot than there are now; I'll grant that. They were packed in such a way that you couldn't get through the lot. There were no more than thirty-four cars.

Mr. Khalili: Can I answer that please?

Mr. Gordon: Not until you identify yourself. It was a mess and it was obvious that in the winter months, to me, this lot cannot accommodate that. That's why I think the twenty-five was a compromise.

Mr. Rosen: That's pretty much what it said.

Mr. Gordon: I think that the board was unwilling to increase the number but then we came up with a consensus of a compromise. Why will it be different now? I mean, in January these cars were on the lot plugging the lot to the degree that you could not get through.

Atty. Byrne: Mel, I can't tell you how many cars were there in January because I don't know what happened at that point in time.

Mr. Gordon: Well, we were there because we went and heard it, so we saw.

Atty. Byrne: If there were twenty...

Mr. Gordon: No, there weren't twenty; there were over thirty.

Atty. Byrne: Okay, but if you look at the photographs and if you walk the lot itself and you look at it and believe me if you start putting them in there, maybe they're not parking them right. I don't know what it was that they did in January. All I'm saying is that I don't know what was presented to you.

Mr. Gordon: Well, what's different' it's the same group?

Atty. Byrne: Well, if you did the cars, if you did seven in front, if you did the eighteen on the side and you did this in the rear section...

Mr. Bayou: Mr. Gordon, I have an explanation for last January.

Mr. Gordon: You'll have to ask him to let you speak.

Mr. Bayou: I'm sorry.

Atty. Byrne: Mr. Bayou?

Mr. Bayou: Last January, an explanation for how the cars were parked, the reason my tenants had the cars parked that way was because the lot really looks empty when you park them like this. So, they had cars parked in more towards Route 9. That's the reason, probably, before the hearing. Then when you guys drove by, Mr. Gordon drove by, it looked very tight. That was really the only reason. I don't even remember snow on the lot. The reason was that they pulled cars up front because the lot really looks empty if you have twenty cars and you park them the way you have them here. It looks empty. People will think that you're not doing, you know, well in business. They probably don't want to pull in. It almost looks like you're out of business. That's the only reason why the cars were parked that way.

Atty. Byrne: It would be very interesting to count the cars that are in the pictures because I think that there are probably twenty cars in the lot at that point.

Mr. Bayou: There were twenty.

Mr. Gordon: And, there are twenty or, there were yesterday.

Atty. Byrne: If you look at that with twenty and that's the permitted uses.

Mr. Gordon: There were over thirty in January.

Mr. Bayou: Right.

Mr. Rosen: There were more in January.

Atty. Byrne: No, no. But, I'm saying if the limit now is twenty... I wish that they were out there. I actually counted cars and there were seven and a whole bunch on the side and my over priced car and the rest of them. You may have twenty cars there at that point realizing that it accommodates substantially more than that appropriately placed.

Mr. Bayou: With respect to the snow storage, if you look at parking space eight through eighteen the distance between eight and eighteen towards the building is a very large distance so my suggestion for snow would be that you need to move those vehicles and you can probably push snow up against that side of it. Even if you took 3 or 4 ft. of snow

behind that and then parked the cars back you would still have plenty of room there. I don't know if that's something that's feasible.

Mr. Rosen: Isn't that where eight through twelve are?

Mr. Bayou: Pardon?

Mr. Rosen: Isn't that where eight through twelve are?

Mr. Bayou: Eight through eighteen?

Mr. Rosen: Yes.

Mr. Bayou: If you pull the cars forward. Say the car is pulled up forward 3 ft. because behind it is where you're going to push the snow, there's plenty of room. We're just parking them up against the property line. There's plenty of room in the middle there. Basically, to be honest, with twenty cars there the lot looks empty. It almost looks like you're not doing business. You're used to a car dealership, if you walk in the cars are parked on top of each other. We're not looking for that. We just want to be able to use the perimeter space. Even with thirty-four cars it's plenty of room to get in and get out. Without it, it just looks empty.

In order to conduct business these days and to pay the rent, my tenants are actually hurting. I actually put an ad in the paper because they're not sure if they can make it. They need to have more cars to be able to sell more cars. This is very simple. We're just trying to keep them in business and pay the bills, I guess.

Mr. Gordon: Is this their only lot?

Mr. Bayou: Yes, it is.

Mr. Gordon: There are no other lots?

Mr. Bayou: No.

Mr. Gordon: Neither of them?

Mr. Bayou: No.

Atty. Byrne: Rahmi lives at 715 Main Street here in Shrewsbury. At one point, he was a partner selling cars and he put them on Ray's lot. He had another lot.

Mr. George: He had another lot?

Atty. Byrne: I thought so.

Mr. Bayou: He was in the used car business.

Atty. Byrne: Yes. This was prior to him leasing this property.

Mr. Gordon: Mr. Chairman?

Mr. Rosen: Yes Mr. Gordon.

Mr. Gordon: The tenants wanted to speak when I was in the middle of speaking. So, he might still have something to say.

Mr. Rosen: Do you wish to be heard? Just identify yourself please.

Mr. Khalili: My name is Hossein Khalili. I'm the co-owner of that business. Basically, what we are proposing is we do have this space; the space is available. It's not going to intrude with any traffic or anything. Also, the truth of the matter is if we won't be able to use this space and do business it's going to be a matter of time before we go out of business because if we don't offer the customer alternatives to what we have over there as far as the brand and number of cars is concerned we won't be able to survive. That's the truth of the matter.

Also, all of the complaints that came as far as the number of the cars and the stuff, it came from my competition next door. I can assure that the number of the cars that he has in his lot is more than what is granted.

Mr. Gordon: Whoa, whoa, whoa. Mr. Byrne, why don't you explain to your clients that we don't deal with personalities.

Atty. Byrne: What I suggested, Mr. Gordon and the rest of it, is that there was a complaint issued to the Police Department in April the source of which I do not know. Whatever surmise somebody might have is purely and exclusively surmise. There aren't any other abutters around.

Mr. Gordon: I don't know. I don't know anybody so I come without a dog to this fight.

Atty. Byrne: I understand.

Mr. Rosen: Does anyone else wish to be heard on this matter? There being none, we'll take it under advisement and notify you of the board's decision.

The decision of the board is on the following page.

#### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals voted four in favor of and one opposed to the granting of the appeal of Select Auto Sales, 421 Boston Tpke., Shrewsbury, MA, to amend the special permit granted on August 13, 1986 permitting the sale of motor vehicles upon property located at 421 Boston Tpke. to now allow the display/storage of 30 vehicles thereon for said purpose.

Upon review of this appeal, the majority of the board noted that the subject premises has been used for a number of years as a used car sales lot in accordance with the special

permit issued in 1986. They found that the use of the site for said purpose over the course of time has not created any nuisance or other condition which has adversely impacted the welfare of either the general public or residents or businesses located within the immediate vicinity of this lot. It was their opinion that the property could readily accommodate the display/storage of an additional 10 vehicles without materially changing the nature of the used car business conducted thereon. They, therefore, voted to amend the 1986 special permit to allow the display/storage of a maximum of 30 vehicles upon this site subject to the stipulations set forth below.

One member of the board was of the opinion that the property did not have sufficient area to accommodate either the 34 vehicles requested by the appellant or the additional 10 vehicles authorized by the majority vote of the board as stated above. He noted that the business has viably operated for approximately 20 years in accordance with the 20 vehicle restriction set forth in the 1986 permit and felt that the site was too small to accommodate a 30 per cent increase in the space needed to store the extra vehicles and to also provide adequate off-street parking for employees and customers, especially during the winter months when a portion of the site is encumbered by snow storage. He felt that the granting of the appeal would greatly intensify the use of the lot whereby the majority of its land area would be covered by either the existing building or vehicles parked thereon resulting in a very congested and overcrowded condition. He, therefore, voted to deny the appeal.

1. The use of the site for the aforementioned purpose shall be conducted in accordance with the other terms and conditions as set forth in the board's August 1986 decision.
2. The rights authorized by this granting shall remain in effect for a period of 2 years, said period commencing upon the date of the filing of this decision with the office of the Shrewsbury Town Clerk.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	No
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Top Cat Rentals, LLC, 537 Hartford Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Top Cat Rentals, LLC, 537 Hartford Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the sale, rental, storage, repair and maintenance of construction equipment, vehicles and machinery, tools, parts and accessories related thereto upon property located at 537 Hartford Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 48 as Plot 8-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 10, 2006 and October 16, 2006.

Atty. Ricker: Mr. Chairman and members of the board, for the record, I'm Richard Ricker. I'm an attorney practicing law in Shrewsbury at 11 Maple Avenue. I'm representing Top Cat Rentals, LLC. Seated to my right is Chris Muello who is the manager of Top Cat Rentals, a newly formed LLC which is a franchisee of Caterpillar Through the Milton Cat Rental Alliance formerly know as Southworks Milton, a well known Caterpillar dealer in Massachusetts.

What Mr. Muello and Top Cat Rentals propose to do is from the front of his property at 537 Hartford Turnpike, also 539 Hartford Turnpike, is to sell, rent, store, maintain and service construction related equipment of the Caterpillar brand and Caterpillar related brands. Basically, he has for nine years now been operating a company called C-J Trucking. You may see their trucks around the area. They're nice clean trucks. He runs a clean business. He recently acquired the property that we're talking about. You may note that there's been substantial improvements at that property both inside and out. The place has all been resurfaced and resealed. The fence has been reinstalled and maintained and repaired. Substantial funds have been spent here renovating the property, both inside and out.

He proposes to operate this himself. He would be the manager. This is something for licensing to deal with. He would also put his business, C-J Trucking, on the lot to bring that into Shrewsbury. You can see on the plan that has been provided to you that there is ample room on this lot which is almost a three acre lot. It's a flat lot. However, it is an irregularly shaped lot. It's a nice flat area, a good area for storage of his equipment, some of which storage can be clearly out of sight and away from Route 20.

In any event, I would suggest to you, respectfully, that this is an area of high traffic, construction-related businesses. The equipment related businesses and sales and rentals is a common practice in this general vicinity and general area. This would be in keeping with, I think, the tenor of both the Master Pan and what this area and vicinity have for businesses. I would suggest, respectfully, that nothing that he proposes here would be detrimental to the general neighborhood or the public in general. I think that it's a good clean business. Caterpillar is a good name and I think that it would be a good addition to that location. You may recall that this is the former property for Rent 'N Roam, which was the RV rental company. So, it's in keeping with what was there before, as well.

Mr. Gordon: Are you going to be coming back for a sign or are you going to be using the existing sign?

Atty. Ricker: He plans to use the existing sign. He will put some signage on the building, as well, but he plans to use the existing sign. He has no plans, at this stage, to ask for any additional signage on the pole out front. He has a pylon at the front of the parking lot, correct.

Mr. Gordon: Yes.

Atty. Ricker: There is good visibility there.

Mr. Rosen: What are you looking for for hours of operation?

Atty. Ricker: Seven to seven, Monday through Saturday.

Mr. Rosen: Okay. No Sunday hours?

Atty. Ricker: No Sunday hours. He would have two or three employees in this particular business. He expects that he would have an additional seven employees with his C-J Trucking. He's also looking to rent out another portion of the property which would add, we expect, another four employees or so for that tenant, which is a garage area that has been used for the repair of trucks over the years.

Mr. Rosen: Is there existing lighting?

Atty. Ricker: There is existing lighting. There's pole lighting both in the middle of the parking lot and towards the front of the parking lot. There are two town owned lights that shine lights down on the front of the parking lot, SELCO lights, that he pays rent for. There's also lighting on the building itself. There're wall packs all around the building on the outside.

Mr. Rosen: Okay, so there are no changes?

Atty. Ricker: No. There have been some changes but I think we're discussing with Mr. Alarie some code compliance changes at this time, but I don't expect any really extraordinary changes to the site lighting.

Mr. Gordon: There is going to be truck maintenance here I would imagine?

Atty. Ricker: There would be, yes. And there would be maintenance of his vehicles and of the equipment that he rents and for trucks and larger vehicles in the adjoining bay that he intends to rent out as well.

Mr. Gordon: Okay.

Atty. Ricker: He's about to apply for garage licenses.

Mr. Gordon: Okay. C-J Trucking vehicles are 20 footers, 40 footers, 60 footers, boxes, tanks, what?

Atty. Ricker: It's for dump trucks and trailers.

Mr. Muello: Specialized heavy hauling.

Mr. Gordon: Okay. So, it's not general freight?

Mr. Muello: It's mainly for contractors. The truck is mainly contracted with Caterpillar, moving the construction equipment for them, such as excavators, crushers and trucks of that nature.

Mr. Alarie: It's not a trucking company; it's more of a contractor's office. He has construction related equipment as opposed to over the road hauling tractors and trailers..

Mr. Gordon: Similar to what's on the road now on Route 20?

Atty. Ricker: Pretty much.

Mr. Alarie: When you say "similar," we have contractor's yards and we also have trucking terminals.

Mr. Gordon: Well, you've got another place that rents somebody else's equipment on the road and then you've got Nations Rent. So, is it similar to those?

Atty. Ricker: Yes, it is.

Mr. Alarie: Next door is Roadway Express. When it first came to light it appeared to be a trucking company, but after visiting the site and reviewing his other business, it's just a storage yard for vehicles hauling construction equipment and for parking and maintaining his own 20 yd. dump trucks.

Mr. Gordon: Okay.

Mr. Alarie: You show seventeen spaces out in front for rental. Is that about the limit of the number of vehicles that you offer for rent there or how many total pieces might you have there at one time?

Mr. Muello: I didn't do that to scale, but it's not going to be offensive to the view. Anything that would be out there would be new equipment. I don't think that there would be any more than that.

Atty. Ricker: I think that he's looking to put probably fifteen to twenty pieces of equipment along that front edge.

Mr. George: When you talk about equipment, what are they? Are they like backhoes or loaders?

Atty. Ricker: Bobcats, small bulldozers, loaders, things of that nature. They would be anything of the Caterpillar brand track machines.

Mr. Gordon: Will they be doing some of your rentals or will you be doing all of your rentals?

Atty. Ricker: He would be a franchisee so he would be doing the rentals.

Mr. Gordon: Okay, you'll be doing the rentals, okay.

Atty. Ricker: He is a franchisee.

Mr. Gordon: Okay.

Mr. Alarie: The fire chief and I walked the site. There is a substantial amount of space on this property. It's really been cleaned out. I'm not sure if you were there at any time when Rent' N Roam was here, but there were vehicles all over the place. It was kind of hap-hazard. It seems like this is much better organized than that previous use.

Atty. Ricker: He's done a tremendous amount of work. He intends to keep it clean and neat. He's going to be there.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

### Decision

On October 24, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Top Cat Rentals, LLC, 537 Hartford Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the sale, rental, storage, repair and maintenance of construction equipment, vehicles and machinery, tools, parts and accessories related thereto upon property located at 537 Hartford Tpke.

Upon review of this appeal, the board noted that the subject premises and the adjacent property to the south were, until it was subdivided 1992, one contiguous parcel which was originally developed and used as a trucking terminal. The appellant's building was originally developed in the 1950's as a garage and repair facility ancillary to the trucking company. Following its division in 1992, the building was used for general garage activities for several years and, from 1998 to just recently, it was occupied by Rent'N Roam RV for the rental, sales and repair of recreational vehicles and motor homes and related items. The appellant proposes to utilize the property, which is approximately 2.8 acres in area, for the storage and maintenance of his company's vehicles which are used to transport large construction equipment and earth materials. He also desires to display, sell, rent and repair construction equipment from the premises and to lease a portion of the building for commercial garage activities.

It was the opinion of the board that the appellant's proposed use of this site was in concert with the intent of the Zoning Bylaw in permitting the use of land located within a Limited Industrial District for the sale of large motor vehicles primarily relating to the trucking and construction industry as well as contractor's storage yards. They felt that the nature of its proposed use by Top Cats Rentals, C-J Trucking and the leased garage would not materially differ from what it has been utilized for during the past 15 years and that it would be less intense than the business conducted by Rent'N Roam RV whereby the entire site was dedicated to a more transient clientele and there were substantially more vehicles stored about the premises for sale and servicing. It was, therefore, unanimously voted to grant the appeal subject to the following:

1. The use of the subject premises shall be substantially in accordance with the appellant's presentation to the board.

2. The activities conducted upon the subject site shall be limited to those hours between 7:00 A.M. and 7:00 P.M., Monday through Saturday. There shall be no use of the site for the aforementioned activities on Sundays.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes